

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

RUBEN EDWARD MORA,

Plaintiff,

v.

OGNJEN PETRAS,

Defendant.

No. 2:20-cv-00749-DAD-JDP (PC)

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS, GRANTING
DEFENDANT'S MOTION FOR SUMMARY
JUDGMENT, AND DENYING PLAINTIFF'S
MOTION FOR SUMMARY JUDGMENT
AND MOTION TO AMEND COMPLAINT

(Doc. Nos. 38, 42, 45, 60)

Plaintiff Ruben Edward Mora is a state prisoner proceeding *pro se* and *in forma pauperis* in this civil rights action pursuant to 42 U.S.C. § 1983. This matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On February 24, 2022, the assigned magistrate judge issued findings and recommendations, recommending that defendant's motion for summary judgment (Doc. No. 38) be granted, plaintiff's motion for summary judgment (Doc. No. 42) be denied, and plaintiff's motion to amend complaint (Doc. No. 45) also be denied. (Doc. No. 60.) Specifically, the magistrate judge found that plaintiff's medical records establish that defendant did not exhibit deliberate indifference to plaintiff's medical needs in violation of the Eighth Amendment. (*Id.* at 4–5.) The findings and recommendations were served on all parties and contained notice that any

1 objections thereto were to be filed within fourteen (14) days of service. (*Id.* at 5–6.) Plaintiff
2 belatedly filed objections dated March 13, 2022, outside the objections period. (Doc. No. 61.)
3 Nonetheless, out of an abundance of caution, the undersigned will review and address plaintiff’s
4 objections.

5 In his objections, plaintiff contends he was not provided the opportunity to prove his case
6 because his access to the prison law library was limited. (*Id.* at 1, 8.) He also objects to the
7 findings, arguing that, in contradiction to entries in his medical records, he was never provided
8 with therapeutic shoes and now requires the use of a wheelchair. (*Id.* at 5.) Plaintiff also states
9 that “the magistrate judge is not a diabetic doctor. You don’t lose a toe in 3 weeks.”

10 Although plaintiff argues that he could not respond to defendant’s motion for summary
11 judgment due to lack of access to the prison law library, the docket reflects that plaintiff
12 submitted numerous court filings following defendant’s motion for summary judgment, including
13 requests for extensions of time, his own motion for summary judgement, a belated motion to
14 amend his complaint, several motions for the appointment of counsel, and multiple responses to
15 motions to seal. (*See* Doc. Nos. 40, 42, 45, 46, 47, 48, 55, 57, 58.) Plaintiff has failed to explain
16 why he was unable to respond to defendant’s motion for summary judgment and to present any
17 factual evidence to support his arguments despite being able to file other motions in this action.
18 Furthermore, plaintiff still has not presented any evidence to counter, or draw into question or
19 dispute, the accuracy of his medical records. Rather, plaintiff has merely claimed that he did not
20 receive the prescribed therapeutic shoes. The undersigned finds plaintiff’s objections to be
21 unpersuasive.

22 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C) and Local Rule 304, this
23 court has conducted a *de novo* review of this case. Having carefully reviewed the entire file,
24 including plaintiff’s objections, the court finds the findings and recommendations to be supported
25 by the record and proper analysis.

26 Accordingly,

- 27 1. The findings and recommendations issued on February 24, 2022 (Doc. No. 60) are
28 adopted in full;

2. Defendant's motion for summary judgment (Doc. No. 38) is granted;
3. Plaintiff's motion for summary judgment (Doc. No. 42) is denied;
4. Plaintiff's motion to amend the complaint (Doc. No. 45) is denied;
5. Summary judgment is entered in defendant's favor; and
6. The Clerk of Court is directed to close the case.

IT IS SO ORDERED.

Dated: September 8, 2022


UNITED STATES DISTRICT JUDGE